

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

EDWIN ROMAN,

Plaintiff,

-against-

19-CV-06935

NIGHTHAWK SECURITY ASSOCIATES,  
INC., et al.

Defendants.

**AMENDMENT TO SETTLEMENT AGREEMENT AND RELEASE**

WHEREAS, Nighthawk Security Associates, Inc. (“Nighthawk”), Daniel J. Murphy (“Mr. Murphy”) (collectively “Nighthawk Defendants”), and NEC Corporation of America (“NEC”), and (Nighthawk, Mr. Murphy and NEC are collectively hereinafter referred to as “Defendants”) and Plaintiff Edwin Roman, Plaintiff’s heirs, executors, administrators, successors, and assigns (“Plaintiff”) (Plaintiff and Defendants together, the “Parties”), had agreed to a Settlement Agreement and Release (“Agreement”) in an effort to resolve Plaintiff’s Fair Labor Standards Act (“FLSA”), New York Labor Law (“NYLL”) and prevailing wage claims against Defendants in the pending action: *Roman v. Nighthawk Security Associates, Inc.*, No. 19-CV-06935 (the “lawsuit”), as well as all claims that the Nighthawk Defendants and NEC have or might have against each other in the lawsuit (collectively, the “Cross-Claims”).

WHEREAS, after a Cheeks hearing before Magistrate Roann Mann the parties agreed that the attorneys’ fees to be awarded to Plaintiff’s attorneys be reduced to \$8,168.69 plus costs of \$493.93 resulting in \$16,337.38 to be paid to Plaintiff; and that the words demean and disparage be removed from the Agreement;

NOW, THEREFORE, IT IS STIPULATED AND AGREED BY AND AMONG THE PARTIES THAT THE AGREEMENT IS MODIFIED AS FOLLOWS:

Paragraph 1 a-c is replaced with the following:

**1. Consideration.** In consideration for Plaintiff signing this Agreement and complying with its terms, Defendants agree to pay to Plaintiff the total sum of Twenty Five Thousand Dollars and Zero Cents (\$25,000.00). This sum will be paid as follows:

- a. A check made payable to “Edwin Roman” in the amount of Twelve Thousand Five Hundred Dollars and Zero Cents (\$12,500.00) from Nighthawk Defendants, less legal deductions, in full satisfaction of all FLSA, NYLL and prevailing wage claims Plaintiff may have for wages

allegedly owed. An IRS Form 1099 will be issued to Plaintiff with respect to this amount after the end of the calendar year in which this check is paid;

- b. A check made payable to “Edwin Roman” in the amount of Three Thousand Eight Hundred Thirty Seven Dollars and Thirty Eight Cents (\$3,837.38) from NEC, in full satisfaction of all claims Plaintiff may have for liquidated damages and/or statutory penalties in connection with Plaintiff’s FLSA, NYLL and prevailing wage claims. An IRS Form 1099 will be issued to Plaintiff with respect to this amount after the end of the calendar year in which this check is paid;
- c. A check made payable to “Derek Smith Law Group, PLLC” in the amount of Eight Thousand Six Hundred Sixty Two Dollars and Sixty Two Cents (\$8,662.62) from NEC. An IRS Form 1099 will be issued to Derek Smith Law Group, PLLC, with respect to this amount after the end of the calendar year in which this check is paid. Moreover, an IRS Form 1099 will be issued to Plaintiff with respect to this amount after the end of the calendar year in which this check is paid. The taxpayer identification number for Derek Smith Law Group, PLLC is 45-4550937.

Paragraph 9 is replaced with the following:

**9. Mutual Non-Defamation.** Plaintiff agrees not to defame any of the Releasees or any of their officers or executives in any manner. Mr. Murphy agrees not to defame Plaintiff in any manner.

All other terms of the Agreement shall remain in effect.

The Parties, through their attorneys, knowingly and voluntarily sign the Amendment to the Agreement.

Dated: October 14, 2020

JACKSON LEWIS P.C.  
666 Third Avenue, 29<sup>th</sup> Floor  
New York, New York 10017  
ATTORNEYS FOR DEFENDANT  
NEC CORPORATION OF AMERICA

DEREK SMITH LAW GROUP,  
PLLC  
One Penn Plaza, Suite 4905  
New York, New York 10119  
ATTORNEYS FOR PLAINTIFF

By: /s/ Wendy J. Mellk

By: /s/ Zack Holzberg

Wendy J. Mellk, Esq.

Zack Holzberg, Esq.

LAW OFFICES OF DAVID P.  
FALLON, PLLC  
53 Main Street, Suite 1  
Sayville, NY 11782  
ATTORNEYS FOR DEFENDANTS  
NIGHTHAWK SECURITY ASSOCIATES, INC.  
AND DANIEL J. MURPHY

By: /s/ David P. Fallon  
David P. Fallon, Esq.

SO ORDERED on this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Hon. ROANNE MANN  
United States Magistrate Judge